

Appl. No. 09/752,372
Amended Dated March 30, 2005
Reply to Office Action of June 30, 2005

Remarks

Claims 3-8, 10-14, 17-19, 22-24, 27, and 31-39 remain standing in this application. Claims 28 and 29 have been canceled. Claims 27 and 31-33 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims is respectfully requested.

We would like to thank the Examiner for allowing claims 19 and 24.

We would also like to thank the Examiner for indicating the allowability of claims 6-8, 31-33 and 37-39 if amended to include all of the limitations of the base claims and any intervening claims. Applicant respectfully submits, however, that these claims represent patentable subject matter as currently listed based on the amendments and/or remarks given for the independent claims as discussed in detail below. Applicant would like to respectfully reserve the right, however, to amend the allowable claims into independent form during further prosecution if warranted.

35 U.S.C. § 102(b)

Claims 3-5, 10-14, 17, 18, 22, 23, 27-29 and 34-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,804,251 (Limb). Applicant respectfully traverses the rejection, and requests favorable reconsideration and withdrawal of the anticipation rejection.

Claims 3-5 define over Limb since Limb fails to teach every element of these claims. For example, independent claim 3 recites:

determining an operating parameter for a packet, with said operating parameter to represent a priority level;

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determining an operating status to be set in accordance with said operating parameter, with said operating status to comprise active or de-active; and

performing packet fragmentation substantially in accordance with said operating status.

The Office Action states that Limb discloses "determining an operating parameter (a priority level) for a packet (an information packet 214 in FIG. 2) (col. 13, line 18-55)." Office Action, Page 2, Section 3. The Office Action further states that Limb discloses "determining an operating status (an order of filling the information packet into a grant region and the size of the grant region, col. 13, lines 18-55) to be set in accordance with the operating parameter, with the operating status to comprise active (assigning) or de-active (no-assigning)." *Id.* It appears that the Office Action argues that Limb determines whether to fragment a packet by assigning a packet to a particular grant region. By way of contrast, claim 3 recites "determining an operating status to be set in accordance with said operating parameter, with said operating status to comprise active or de-active." Consequently, claim 3 determines whether to activate or deactivate packet fragmentation based on the priority level of a packet. Although Limb may arguably classify packets based on priority levels, Limb clearly states that "information packets of highest priority are transmitted first without concern for the size of the grant region." Limb, Col. 13: Lines 38-41. Therefore, even if the argument put forth in the Office Action were true, packets would still not be assigned to a particular grant region based on a priority level of the packets. Furthermore, at the given cite, Limb describes "selecting from information packets of equal priority, those packets which best fill the available grant region and do not require additional fragmentation." Limb, Col. 13: Lines 47-50. Therefore, Limb assigns packets to grant regions if they do not require additional fragmentation, which is

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opposite of the position taken in the Office Action. In other words, Limb does not evaluate a packet based on a priority level to determine whether to fragment a packet, but rather decides whether to assign a packet to a grant region if the packet does not need fragmentation. Consequently, Limb fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to independent claim 3. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 4 and 5 which depend from claim 3, and therefore contain additional features that further distinguish these claims from the Limb reference.

Claims 10-14, 17, 18, 22, 23, 27-29 and 34-36 recite features similar to those recited in claims 3-5. Therefore, for reasons analogous to those presented with respect to claims 3-5, Applicant respectfully submits that claims 10-14, 17, 18, 22, 23, 27-29 and 34-36, and all claims directly or indirectly depending therefrom, are not anticipated and are patentable over the Limb reference. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to these claims.

For at least the above reasons, Applicant submits that claims 3-8, 10-14, 17-19, 22-24, 27, and 31-39 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be

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necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Applicant submits that claims 3-8, 10-14, 17-19, 22-24, 27, and 31-39 are in allowable form. Accordingly, a Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,

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s/John F. Kacvinsky/s

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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